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Schwegman, Lundberg, & Woessner/Open TV
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Minneapolis, MN 55402-0938

In re Application of
Joseph Kuriacose et al.
Application No. 09/903,457
Filed: July 10, 2001
For: APPARATUS FOR TRANSMITTING AND
RECEIVING EXECUTABLE APPLICATIONS
AS FOR A MULTIMEDIA SYSTEM, AND METHOD
AND SYSTEM TO ORDER AN ITEM USING A
DISTRIBUTE COMPUTING SYSTEM

RESPONSE TO PETITION
TO EXPUNGE FILED
UNDER 37 CFR 1.59(b)

This is a response to the petition under 37 CFR 1.59(b), filed on December 10, 2002, to expunge information from the above identified application.

A petition under 37 CFR 1.59(b) must contain:

- (A) a clear identification of the information to be expunged without disclosure of the details thereof;
- (B) a clear statement that the information to be expunged is trade secret material, proprietary material, and/or subject to a protective order, and that the information has not been otherwise made public;
- (C) a commitment on the part of the petitioner to retain such information for the period of any patent with regard to which such information is submitted;
- (D) a statement that the petition to expunge is being submitted by, or on behalf of, the party in interest who originally submitted the information;
- (E) the fee as set forth in 37 CFR 1.17(g) for a petition under 37 CFR 1.59(b).

The decision on the petitions will be held in abeyance until allowance of the application or mailing of an *Ex parte Quayle* action or a Notice of Abandonment, at which time the petition will be decided.

The decision on the petition is held in abeyance because prosecution on the merits is not closed. Accordingly, it is not appropriate to make a final determination of whether or not the material requested to be expunged is "material," with "materiality" being defined as any information which the examiner considers as being important to a determination of patentability of the claims. Thus, the decision on the petition to expunge must be held in abeyance at this time.

During prosecution on the merits, the examiner will determine whether or not the identified document is considered to be "material." If petition satisfies requirements (A)-(E) above and the information is not considered by the examiner to be material, the information will be removed from the official file.



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SnM/snM: 10/17/11

